IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

THURSDAY, THE 20TH SEPTEMBER 2007 / 29TH BHADRA 1929

Crl.Rev.Pet.No. 117 of 2000()

CRA.62/1997 of SESSIONS COURT, KOLLAM
CC.53/1995 of JUDL.MAGISTRATE OF FIRST CLASS-II, KOTTARAKKARA

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REVN. PETITIONER: APPELLANT/ACCUSED

GOPINATHAN, S/O.RAGHAVAN
VISWANATHAMANDIRATHIL
ALANCHERI MURI, EROOR VILLAGE.

BY ADV. SRI.REJI MATHEW KAVALAYIL

RESPONDENTS: RESPONDENT/COMPLAINANT

STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.C.K.SURESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 20/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R.UDAYABHANU, J

Crl.R.P.No.117 of 2000

Dated this the 20th day of September, 2007

O R D E R

The revision petitioner/accused stands convicted for the offences under Sections 279, 337, 338 and 304(A) IPC and sentenced to undergo R.I. for six months for the offence under Section 279 IPC and R.I. for one year for the offence under Section 304(A) IPC. No separate sentence is awarded for the offences under Sections 337 and 338 IPC. Further, the accused is disqualified to drive a motor vehicle for a period of one year.

2. The prosecution case is that the revision petitioner/ accused being the driver of a bus bearing registration No. KL-01/C 7290 named S.R.M. on 3.8.1994 at 6 p.m. drove the bus through M.C. road from north to south in over speed and in a rash and negligent manner so as to endanger human life and hit on another bus KL-01/C 7025 by name Ruby and on account of injuries sustained in the accident three persons died and a number of persons sustained injuries. CWs' 2 and 7 have sustained fractures and CW7 lost his teeth.

3. The evidence adduced in the matter consisted of the testimony of PWs' 1 to 21 and Exts. P1 to P14.

4. The death of three persons, namely Saidukunju, Purushothaman Nair and Soosamma, on account of injuries sustained in the accident has been proved from the testimony of PWs' 1 to 11 as well as from Exts. P3 to P5 inquest reports and Exts. P11 and P12 reports of postmortem which were proved by PW19, the Asst. Surgeon and PW21, the investigating officer. PW20 is the ASI, who registered the crime and conducted the inquest. PW18, the Joint RTO who inspected the vehicle has proved Exts. P9 and P10 certificates of inspection of the vehicle. Of the prosecution occurrence witnesses examined PWs' 1 to 3, 7 and 10 turned hostile. PWs' 4 to 6 and PWs' 11 and 12 have supported the prosecution version. PW7 has deposed that it is due to the negligence of PW12, the driver of the Ruby bus, that the bus driven by the accused dashed against. The witnesses are passengers of Ruby bus. It has come out in evidence that there was rain at the time of the incident and the windows on the sides of the buses were closed. Hence, the evidence of the witnesses

who supported the prosecution itself is not helpful. But, I find that Ext. P2 scene mahazar and Ext. P8 scene plan clearly show that when the accident took place the bus driven by the accused was on the wrong side. The bus was proceeding to the south and the other bus coming from the opposite direction. The tarred portion of the road had width of 6.2 mtrs. At the place of occurrence there was a curve. The incident has taken place at 1.2 mtrs. east of the western tar end. The above as well as the lying of the vehicle noted in the scene mahazar clearly indicate that the incident took place on the wrong side of the bus driven by the accused. Moreover, the vehicle inspection reports shows that the right side of the body 100 cm. from front to rear up to 755 cm. was fully damaged, seats at the area was totally damaged, platform of the area was damaged and center post of the area bent. The front right side of the bus driven by the accused hit on the right side of Ruby bus and sustained damage. The witnesses i.e., 4 to 6 and 11 and 12 have identified the accused as the driver of the bus. In the circumstances, I find no reason to deviate from the findings of the court below. The

conviction is confirmed.

5. Counsel for the revision petitioner has pleaded for leniency pointing out that the incident has taken place in the year 1994 and more than 10 years have elapsed since the commencement of the proceedings. All the same, the irresponsible acts of the accused resulted in loss of life. In the circumstances, the sentence imposed for the offence under Section 304(A) IPC is modified to undergo simple imprisonment for four months and to pay a compensation of Rs.10,000/- each to the legal representatives of the deceased and in default, to undergo simple imprisonment for six months. No separate sentence is awarded with respect to the rest of the offences.

The criminal revision petition is disposed of accordingly.

K.R.UDAYABHANU,
JUDGE

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